

ORIGINAL

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DEC 14 2001

JAMES R. LARSEN, CLERK
DEPUTY
SPOKANE, WASHINGTON

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

NUVEEN QUALITY INCOME MUNICIPAL
FUND, INC.; NUVEEN PREMIUM
INCOME MUNICIPAL FUND 4, INC.;
STRONG MUNICIPAL BOND FUND, INC.;
SMITH BARNEY MUNICIPAL FUND
LIMITED TERM; SMITH BARNEY
MUNICIPAL HIGH-INCOME FUND; and
VANGUARD HIGH-YIELD TAX-EXEMPT
FUND; U.S. BANK TRUST NATIONAL
ASSOCIATION, in its capacity as Indenture
Trustee on behalf of Holders of Spokane
Downtown Foundation Parking Revenue
Bonds; and ASSET GUARANTEE
INSURANCE COMPANY,

Plaintiffs,

v.

PRUDENTIAL SECURITIES
INCORPORATED, a Delaware corporation;
WALKER PARKING
CONSULTANTS/ENGINEERS, INC., a
Michigan corporation; FOSTER PEPPER &
SHEFELMAN PLLC, a Washington
professional limited liability company;
SPOKANE DOWNTOWN FOUNDATION, a
Washington corporation; PRESTON GATES
& ELLIS LLP, a Washington limited liability
partnership; CITIZENS REALTY
COMPANY, a Washington corporation;
LINCOLN INVESTMENT COMPANY OF
SPOKANE, a Washington corporation;
RIVER PARK SQUARE, L.L.C, a
Washington limited liability company; RPS II,
L.L.C., a Washington limited liability

No. CS-01-0127-EFS

(Consolidated With
No. CS-01-0128-EFS)

DEFENDANT PRESTON GATES &
ELLIS LLP'S ANSWER AND
AFFIRMATIVE DEFENSES TO
PLAINTIFF'S FIRST AMENDED
COMPLAINT

1 company; RWR MANAG EMENT, INC., a
2 Washington corporation, d/b/a R. W.
3 ROBIDEAUX AND COMPANY; CITY OF
4 SPOKANE, WASHINGTON, a first-class
5 charter city of the State of Washington;
6 SPOKANE PUBLIC PARKING
7 DEVELOPMENT AUTHORITY, an
8 unregistered Washington corporation, doing
9 business as RIVER PARK SQUARE
10 PARKING,

11 Defendants.

12 CITY OF SPOKANE,

13 Third-Party Plaintiff,

14 v.

15 ROY KOEGEN and ANNE KOEGEN, a
16 marital community; and PERKINS COIE,
17 LLP,

18 Third-Party Defendants.

19 Defendant Preston Gates & Ellis LLP ("Preston") answers plaintiff U.S. Bank
20 Trust National Association's First Amended Complaint ("Complaint") as follows:

21 1. Preston states that paragraph 1 contains legal conclusions for which no
22 response is required. To the extent any answer is required, Preston denies the
23 allegations contained in paragraph 1.

24 2. Preston denies that this Court should exercise jurisdiction over Plaintiff's
25 claims and, on that basis, denies the allegations regarding venue contained in paragraph
2. Except as so denied, Preston admits the allegations contained in paragraph 2.

3. Preston admits the allegations contained in paragraph 3, except states that
the Foundation issued the Bonds on or about September 24, 1998, rather than
September 15, 1998.

4. Preston lacks of knowledge or information sufficient to form a belief as to
the truth or falsity of the allegations contained in the first sentence of paragraph 4 and,

1 on that basis, denies those allegations. Preston admits the allegations contained in the
2 second sentence of paragraph 4.

3 5. Preston admits the allegations contained in the first sentence of
4 paragraph 5. Preston admits that the source of repayment for the Bonds was revenues
5 from the Garage and states that the Ordinance referred to in the second sentence of
6 paragraph 5 is a written document, which, as a whole, speaks for itself. Preston lacks
7 knowledge or information sufficient to form a belief as to the truth or falsity of the
8 remaining allegations contained in paragraph 5 and, on that basis, denies those
9 allegations.

10 6. Preston denies the allegations contained in paragraph 6.

11 7. Preston states that paragraph 7 contains legal conclusions for which no
12 response is required. To the extent any answer is required, Preston denies the
13 allegations contained in paragraph 7 to the extent they purport to relate to Preston.
14 Preston lacks knowledge or information sufficient to form a belief as to the truth or
15 falsity of the remaining allegations contained in paragraph 7 and, on that basis, denies
16 those allegations.

17 8. Preston lacks knowledge or information sufficient to form a belief as to the
18 truth or falsity of the allegations contained in paragraph 8 and, on that basis, denies
19 those allegations.

20 9. Preston admits that Prudential acted as underwriter in connection with the
21 issuance of the bonds and that John C. Moore was an employee of Prudential. Preston
22 lacks knowledge or information sufficient to form a belief as to the truth or falsity of
23 the remaining allegations contained in paragraph 9 and, on that basis, denies those
24 allegations.
25

1 10. Preston lacks knowledge or information sufficient to form a belief as to the
2 truth or falsity of the allegations contained in paragraph 10 and, on that basis, denies
3 those allegations.

4 11. Preston states that the Walker Report referred to in paragraph 11 is a
5 written document, which, as a whole, speaks for itself. Preston lacks knowledge or
6 information sufficient to form a belief as to the truth or falsity of the remaining
7 allegations contained in paragraph 11 and, on that basis, denies those allegations.

8 12. Preston states that the Walker Reports, which are mischaracterized and
9 taken out of context in paragraph 12, are written documents, which, as a whole, speak
10 for themselves. Preston lacks knowledge or information sufficient to form a belief as to
11 the truth or falsity of the remaining allegations contained in paragraph 12 and, on that
12 basis, denies those allegations.

13 13. Preston states that the Official Statements referred to in paragraph 13 are
14 written documents that, as a whole, speak for themselves. Preston lacks knowledge or
15 information sufficient to form a belief as to the truth or falsity of the remaining
16 allegations contained in paragraph 13 and, on that basis, denies those allegations.

17 14. Paragraph 14 contains legal conclusions, rather than factual allegations, for
18 which no response is required. To the extent any answer is required, Preston denies the
19 allegations contained in paragraph 14 for lack of knowledge or information sufficient to
20 form a belief as to their truth or falsity.

21 15. The allegations contained in paragraph 15 appear directed at defendant
22 Foster, not defendant Preston, and therefore do not require any answer from Preston.
23 To the extent any answer is required, Preston denies the allegations contained in
24 paragraph 15 to the extent they may purport to relate to Preston, and denies the
25

1 remaining allegations contained in paragraph 15 for lack of knowledge or information
2 sufficient to form a belief as to their truth or falsity.

3 16. Preston admits that the Foster law firm issued an Opinion dated September
4 24, 1998, in connection with the issuance of the Bonds and states that the Opinion is a
5 written document, which, as a whole, speaks for itself. Preston lacks knowledge or
6 information sufficient to form a belief as to the truth or falsity of the remaining
7 allegations contained in paragraph 16 and, on that basis, denies those allegations.

8 17. Preston admits that the Foundation was created and states that (1) the
9 Foundation was created through written documents that speak for themselves, (2) the
10 Foundation was created, in part, to issue bonds and purchase the Garage with proceeds
11 from the sale of such bonds, and (3) the affairs of the Foundation have been managed
12 by its Board of Directors. Except as expressly admitted herein, Preston lacks
13 knowledge or information concerning each and every other or different allegation
14 contained in paragraph 17 and, on that basis, denies those allegations.

15 18. Preston states that it is an Oregon limited liability partnership engaged in
16 the practice of law with its principal offices in Seattle, Washington, not a Washington
17 limited liability partnership, and, on that basis, denies the allegations contained in the
18 first sentence of paragraph 18. Preston states that the allegations contained in the third
19 sentence of paragraph 18 contain legal conclusions for which no answer is required. To
20 the extent any answer is required, Preston objects to the allegations as vague, and
21 subject to such objection, admits that it issued a bond opinion on or around September
22 24, 1998, states that it believed that some potential purchasers might consider certain
23 opinions expressed therein, denies that it had any knowledge, expectation or belief
24 concerning plaintiffs, lacks knowledge or information sufficient to form a belief as to
25 whether any plaintiffs did or did not rely on any part of the opinion or for what purpose

1 they may or may not have allegedly relied on the opinion, and denies each and every
2 other or different allegation contained in paragraph 18.

3 19. Paragraph 19 contains legal conclusions for which no response is required.
4 To the extent any answer is required, Preston states that paragraph 19 does not properly
5 describe Preston's duties as issuer's counsel and denies the allegations contained in
6 paragraph 19.

7 20. Paragraph 20 contains legal conclusions for which no response is required.
8 To the extent any answer is required, Preston states that paragraph 20 does not properly
9 describe Preston's duties as bond counsel and denies the allegations contained in
10 paragraph 20.

11 21. Preston denies the allegations contained in the first, second and third
12 sentences of paragraph 21. Preston admits that the Bonds could not have been sold
13 without an approving legal opinion of bond counsel and denies each and every other or
14 different allegation contained in the fourth sentence of paragraph 21.

15 22. Preston states that the September 24, 1998 Opinion, which is referred to
16 and excerpted in paragraph 27, is taken out of context and states that the Opinion is a
17 written document that, as a whole, speaks for itself. Preston denies the remaining
18 allegations contained in paragraph 22.

19 23. Preston lacks knowledge or information sufficient to form a belief as to the
20 truth or falsity of the allegations contained in paragraph 23 and, on that basis, denies
21 those allegations.

22 24. Preston lacks knowledge or information sufficient to form a belief as to the
23 truth or falsity of the allegations contained in paragraph 24 and, on that basis, denies
24 those allegations.
25

1 25. Preston lacks knowledge or information sufficient to form a belief as to the
2 truth or falsity of the allegations contained in paragraph 25 and, on that basis, denies
3 those allegations.

4 26. Preston lacks knowledge or information sufficient to form a belief as to the
5 truth or falsity of the allegations contained in paragraph 26 and, on that basis, denies
6 those allegations.

7 27. Preston states that the first sentence of paragraph 27 does not require any
8 response. Preston admits the remaining allegations contained in the second and third
9 sentences of paragraph 27.

10 28. Preston admits that Robideaux has acted as a project director in
11 connection with renovation of the mall and garage and lacks knowledge or information
12 sufficient to form a belief as to the truth or falsity of the remaining allegations
13 contained in paragraph 28 and, on that basis, denies those allegations.

14 29. Preston lacks knowledge or information sufficient to form a belief as to the
15 truth or falsity of the allegations contained in paragraph 29 and, on that basis, denies
16 those allegations.

17 30. Preston lacks knowledge or information sufficient to form a belief as to the
18 truth or falsity of the allegations contained in paragraph 30 and, on that basis, denies
19 those allegations.

20 31. Preston admits the allegations contained in the first sentence of paragraph
21 31. Preston lacks of knowledge or information sufficient to form a belief as to the truth
22 or falsity of the remaining allegations contained in paragraph 31 and, on that basis,
23 denies those allegations.

1 32. Preston lacks knowledge or information sufficient to form a belief as to the
2 truth or falsity of the allegations contained in paragraph 32 and, on that basis, denies
3 those allegations.

4 33. Preston admits the allegations contained in the second sentence of
5 paragraph 33. Preston lacks knowledge or information sufficient to form a belief as to
6 the truth or falsity of the remaining allegations contained paragraph 33 and, on that
7 basis, denies those allegations.

8 34. Preston states that the allegations contained in paragraph 34 are vague and
9 denies those allegations to the extent they purport to apply to Preston. Preston lacks
10 knowledge or information sufficient to form a belief as to the truth or falsity of the
11 remaining allegations contained in paragraph 34 as they purport to apply to other
12 defendants and, on that basis, denies those allegations.

13 35. Preston denies the allegations contained in paragraph 35 to the extent they
14 purport to pertain to Preston. Preston lacks knowledge or information sufficient to
15 form a belief as to the truth or falsity of the remaining allegations contained in
16 paragraph 35 as they purport to apply to other defendants and, on that basis, denies
17 those allegations.

18 36. Preston denies the allegations contained in paragraph 36 to the extent they
19 purport to pertain to Preston. Preston lacks knowledge or information sufficient to
20 form a belief as to the truth or falsity of the remaining allegations contained in
21 paragraph 36 as they purport to apply to other defendants and, on that basis, denies
22 those allegations.

23 37. Preston admits that the Foundation purchased the Garage following the
24 issuance of the bonds and lacks knowledge or information sufficient to form a belief as
25

1 to the truth or falsity of the remaining allegations contained in paragraph 37 and, on
2 that basis, denies those allegations.

3 38. Preston states that the survey referred to in paragraph 38 is a written
4 document, which, as a whole, speaks for itself. Preston lacks knowledge or information
5 sufficient to form a belief as to the truth or falsity of the remaining allegations
6 contained in paragraph 38 and, on that basis, denies those allegations.

7 39. Preston lacks knowledge or information sufficient to form a belief as to the
8 truth or falsity of the allegations contained in paragraph 39 and, on that basis, denies
9 those allegations.

10 40. Preston states that the Report referred to in paragraph 40 is a written
11 document, which, as a whole, speaks for itself and lacks knowledge or information
12 sufficient to form a belief as to the truth or falsity of the remaining allegations
13 contained in paragraph 40 and, on that basis, denies those allegations.

14 41. Preston states that the Reports referred to in paragraph 41 are taken out of
15 context and that the Reports, as a whole, speak for themselves. Preston lacks
16 knowledge or information sufficient to form a belief as to the truth or falsity of the
17 remaining allegations contained in paragraph 41 and, on that basis, denies those
18 allegations.

19 42. Preston lacks knowledge or information sufficient to form a belief as to the
20 truth or falsity of the allegations contained in paragraph 42 and, on that basis, denies
21 those allegations.

22 43. Preston admits that the Foundation was formed, in part, to purchase the
23 garage and finance that purchase by issuing bonds and that Prudential was hired to act
24 as underwriter. Except as otherwise expressly admitted elsewhere herein, Preston
25 denies the remaining allegations contained in paragraph 43.

1 44. Preston lacks knowledge or information sufficient to form a belief as to the
2 truth or falsity of the allegations contained in paragraph 44 and, on that basis, denies
3 those allegations.

4 45. Preston states that the Resolution referred to in paragraph 45 is a written
5 document, which, as a whole, speaks for itself. Preston lacks knowledge or information
6 sufficient to form a belief as to the truth or falsity of the remaining allegations
7 contained in paragraph 45 and, on that basis, denies those allegations.

8 46. Preston lacks knowledge or information sufficient to form a belief as to the
9 truth or falsity of the allegations contained in paragraph 46 and, on that basis, denies
10 those allegations.

11 47. Preston lacks knowledge or information sufficient to form a belief as to the
12 truth or falsity of the allegations contained in paragraph 47 and, on that basis, denies
13 those allegations.

14 48. Preston states that the Walker Report referred to in paragraph 48 is a
15 written document, which, as a whole, speaks for itself. Preston lacks knowledge or
16 information sufficient to form a belief as to the truth or falsity of the remaining
17 allegations contained in paragraph 48 and, on that basis, denies those allegations.

18 49. Preston states that the Walker Report and the Official Statements, which
19 are referred to and excerpted in paragraph 49, are taken out of context and are written
20 documents, which, as a whole, speak for themselves. Preston lacks knowledge or
21 information sufficient to form a belief as to the truth or falsity of the remaining
22 allegations contained in paragraph 49 and, on that basis, denies those allegations.

23 50. Preston lacks knowledge or information sufficient to form a belief as to the
24 truth or falsity of the allegations contained in paragraph 50 and, on that basis, denies
25 those allegations.

1 51. Preston lacks knowledge or information sufficient to form a belief as to the
2 truth or falsity of the allegations contained in paragraph 51 and, on that basis, denies
3 those allegations.

4 52. Preston lacks knowledge or information sufficient to form a belief as to the
5 truth or falsity of the allegations contained in paragraph 52 and, on that basis, denies
6 those allegations.

7 53. Preston lacks knowledge or information sufficient to form a belief as to the
8 truth or falsity of the allegations contained in paragraph 53 and, on that basis, denies
9 those allegations.

10 54. Preston states that the Walker Report, which is referred to and
11 mischaracterized in paragraph 54, is a written document, which, as a whole, speaks for
12 itself. Preston lacks knowledge or information sufficient to form a belief as to the truth
13 or falsity of the remaining allegations contained in paragraph 54 and, on that basis,
14 denies those allegations.

15 55. Preston states that the Walker Report, which is referred to and
16 mischaracterized in paragraph 55, is a written document, which, as a whole, speaks for
17 itself. Preston denies the allegations contained in paragraph 55 to the extent they
18 purport to relate to Preston. Preston lacks knowledge or information sufficient to form
19 a belief as to the truth or falsity of the remaining allegations contained in paragraph 55
20 and, on that basis, denies those allegations.

21 56. Preston lacks knowledge or information sufficient to form a belief as to the
22 truth or falsity of the allegations contained in paragraph 56 and, on that basis, denies
23 those allegations.

1 57. Preston lacks knowledge or information sufficient to form a belief as to the
2 truth or falsity of the allegations contained in paragraph 57 and, on that basis, denies
3 those allegations.

4 58. Preston states that the Reports and letter referred to in paragraph 58 are
5 taken out of context and that the Reports and letter are written documents, which, as a
6 whole, speak for themselves. Preston lacks knowledge or information sufficient to
7 form a belief as to the truth or falsity of the remaining allegations contained in
8 paragraph 58 and, on that basis, denies those allegations.

9 59. Preston states that the Report referred to in paragraph 59 is taken out of
10 context and is a written document, which, as a whole, speaks for itself. Preston lacks
11 knowledge or information sufficient to form a belief as to the truth or falsity of the
12 remaining allegations contained in paragraph 59 and, on that basis, denies those
13 allegations.

14 60. Preston states that the Auble Report referred to and excerpted in paragraph
15 60 is taken out of context and that the written Report, as a whole, speaks for itself.
16 Preston denies each and every other or different allegation contained in paragraph 60.

17 61. Preston states that the Auble Report referred to and excerpted in paragraph
18 61 is taken out of context and that the written Report, as a whole, speaks for itself.
19 Preston denies each and every other or different allegation contained in paragraph 61.

20 62. Preston states that the Auble Report referred to and excerpted in paragraph
21 62 is taken out of context and that the written Report, as a whole, speaks for itself.
22 Preston denies each and every other or different allegation contained in paragraph 62.

23 63. Preston states that the Barrett Report referred to and excerpted in
24 paragraph 63 is taken out of context and that the written Report, as a whole, speaks for
25 itself. Preston lacks knowledge or information sufficient to form a belief as to the truth

1 or falsity of the remaining allegations contained in paragraph 63 and, on that basis,
2 denies those allegations.

3 64. Preston admits that it was anticipated that the interest on the bonds would
4 be exempt from federal income tax and that the tax-exempt status affects the interest on
5 the bonds. Preston denies the remaining allegations contained in paragraph 64 to the
6 extent they purport to relate to Preston and lacks knowledge or information sufficient to
7 form a belief as to the truth or falsity of the remaining allegations contained in
8 paragraph 64, including as they may relate to other defendants and, on that basis, denies
9 those allegations.

10 65. Preston lacks knowledge or information sufficient to form a belief as to the
11 truth or falsity of the allegations contained in paragraph 65 and, on that basis, denies
12 those allegations.

13 66. Preston lacks knowledge or information sufficient to form a belief as to the
14 truth or falsity of the allegations contained in paragraph 66 and, on that basis, denies
15 those allegations.

16 67. Preston states that the reports referred to in paragraph 67 are written
17 documents, which, as a whole, speak for themselves. Preston lacks knowledge or
18 information sufficient to form a belief as to the truth or falsity of the remaining
19 allegations contained in paragraph 67 and, on that basis, denies those allegations.

20 68. Preston lacks knowledge or information sufficient to form a belief as to the
21 truth or falsity of the allegations contained in paragraph 68 and, on that basis, denies
22 those allegations.

23 69. Preston states that the Sabey Garage Report and the Walker Report, which
24 are excerpted and referred to in paragraph 69, are taken out of context, and that the
25 reports are written documents, which, as a whole, speak for themselves. Preston lacks

1 knowledge or information sufficient to form a belief as to each and every other or
2 different allegation contained in paragraph 69 and, on that basis, denies those
3 allegations.

4 70. Preston states that the Sabey Garage Report and the Official Statements
5 referred to in paragraph 70 are written documents, which, as a whole, speak for
6 themselves. Preston lacks knowledge or information sufficient to form a belief as to
7 the truth or falsity of the remaining allegations contained in paragraph 70 and, on that
8 basis, denies those allegations.

9 71. Preston states that the Coopers & Lybrand Report referred to in paragraph
10 71 is taken out of context and the report is a written document, which, as a whole,
11 speaks for itself. Preston lacks knowledge or information sufficient to form a belief as
12 to the truth or falsity of the remaining allegations contained in paragraph 71 and, on
13 that basis, denies those allegations.

14 72. Preston states that the Coopers & Lybrand Report, which is referred to and
15 excerpted in paragraph 72, is taken out of context and that the report is a written
16 document, which, as a whole, speaks for itself.

17 73. Preston states that the Coopers & Lybrand Report, which is referred to and
18 excerpted in paragraph 73, is taken out of context and that the report is a written
19 document, which, as a whole, speaks for itself. Preston lacks knowledge or information
20 sufficient to form a belief as to the truth or falsity of each and every other or different
21 allegation contained in paragraph 73 and, on that basis, denies those allegations.

22 74. Preston states that the Coopers & Lybrand Report, which is referred to and
23 excerpted in paragraph 74, is taken out of context and that the report is a written
24 document, which, as a whole, speaks for itself. Preston lacks knowledge or information
25

1 sufficient to form a belief as to the truth or falsity of each and every other or different
2 allegation contained in paragraph 74 and, on that basis, denies those allegations.

3 75. Preston states that the Coopers & Lybrand Report, which is referred to and
4 excerpted in paragraph 75, is taken out of context and that the report is a written
5 document, which, as a whole, speaks for itself. Preston lacks knowledge or information
6 sufficient to form a belief as to the truth or falsity of each and every other or different
7 allegation contained in paragraph 75 and, on that basis, denies those allegations.

8 76. Preston states that the Coopers & Lybrand Report, which is referred to and
9 excerpted in paragraph 76, is taken out of context and that the report is a written
10 document, which, as a whole, speaks for itself. Preston lacks knowledge or information
11 sufficient to form a belief as to the truth or falsity of each and every other or different
12 allegation contained in paragraph 76 and, on that basis, denies those allegations.

13 77. Preston states that the Coopers & Lybrand Report, which is referred to and
14 excerpted in paragraph 77, is taken out of context and that the report is a written
15 document, which, as a whole, speaks for itself. Preston lacks knowledge or information
16 sufficient to form a belief as to the truth or falsity of each and every other or different
17 allegation contained in paragraph 77 and, on that basis, denies those allegations.

18 78. Preston states that the Coopers & Lybrand Report, which is referred to and
19 excerpted in paragraph 78, is taken out of context and that the report is a written
20 document, which, as a whole, speaks for itself. Preston lacks knowledge or information
21 sufficient to form a belief as to the truth or falsity of each and every other or different
22 allegation contained in paragraph 78 and, on that basis, denies those allegations.

23 79. Preston states that the Auble Report and the Coopers & Lybrand Report
24 referred to and quoted in paragraph 79 are taken out of context and that they are written
25 documents, which, as a whole, speak for themselves. Preston lacks knowledge or

1 information sufficient to form a belief as to the truth or falsity of each and every other
2 or different allegation contained in paragraph 79 and, on that basis, denies those
3 allegations.

4 80. Preston states that the Coopers & Lybrand Report referred to in paragraph
5 80 is taken out of context and is a written document, which, as a whole, speaks for
6 itself.

7 81. Preston denies the allegations contained in paragraph 81 to the extent they
8 purport to relate to Preston. Preston lacks knowledge or information sufficient to form
9 a belief as to the truth or falsity of the allegations contained in paragraph 81 to the
10 extent they purport to relate to other defendants and, on that basis, denies those
11 allegations.

12 82. Preston denies the allegations contained in paragraph 82 to the extent they
13 purport to relate to Preston. Preston lacks knowledge or information sufficient to form
14 a belief as to the truth or falsity of the allegations contained in paragraph 82 as they
15 purport to relate to other defendants and, on that basis, denies those allegations.

16 83. Preston denies the allegations contained in paragraph 83 to the extent they
17 purport to relate to Preston. Preston lacks knowledge or information sufficient to form
18 a belief as to the truth or falsity of the allegations contained in paragraph 83 as they
19 purport to relate to other defendants and, on that basis, denies those allegations.

20 84. Preston states that the Official Statements referred to in paragraph 84 are
21 written documents, which, as a whole, speak for themselves, and incorporates by this
22 reference its answers to paragraphs 85 through 96 below.

23 85. Preston states that the Official Statements referred to and excerpted in
24 paragraph 85 are mischaracterized and taken out of context and that the Official
25

1 Statements are written documents, which, as a whole, speak for themselves. Preston
2 denies the remaining allegations contained in paragraph 85.

3 86. Preston states that the Official Statements referred to and excerpted in
4 paragraph 86 are mischaracterized and taken out of context, and that the Official
5 Statements are written documents, which, as a whole, speak for themselves. Preston
6 denies the remaining allegations contained in paragraph 86.

7 87. Preston states that the Official Statements referred to and excerpted in
8 paragraph 87 are mischaracterized and taken out of context, and that the Official
9 Statements are written documents, which, as a whole, speak for themselves. Preston
10 denies the remaining allegations contained in paragraph 87.

11 88. Preston states that the Official Statements referred to and excerpted in
12 paragraph 88 are mischaracterized and taken out of context, and that the Official
13 Statements are written documents, which, as a whole, speak for themselves. Preston
14 denies the remaining allegations contained in paragraph 88.

15 89. Preston states that the Official Statements referred to and excerpted in
16 paragraph 89 are mischaracterized and taken out of context, and that the Official
17 Statements are written documents, which, as a whole, speak for themselves. Preston
18 denies the remaining allegations contained in paragraph 89.

19 90. Preston states that the Official Statements referred to and excerpted in
20 paragraph 90 are mischaracterized and taken out of context, and that the Official
21 Statements are written documents, which, as a whole, speak for themselves. Preston
22 denies the remaining allegations contained in paragraph 90.

23 91. Preston states that the Official Statements referred to and excerpted in
24 paragraph 91 are mischaracterized and taken out of context, and that the Official
25

1 Statements are written documents, which, as a whole, speak for themselves. Preston
2 denies the remaining allegations contained in paragraph 91.

3 92. Preston states that the Official Statements referred to and excerpted in
4 paragraph 92 are mischaracterized and taken out of context, and that the Official
5 Statements are written documents, which, as a whole, speak for themselves. Preston
6 denies the remaining allegations contained in paragraph 92.

7 93. Preston states that the Official Statements referred to and excerpted in
8 paragraph 93 are mischaracterized and taken out of context, and that the Official
9 Statements are written documents, which, as a whole, speak for themselves. Preston
10 denies the remaining allegations contained in paragraph 93.

11 94. Preston states that the Official Statements referred to and excerpted in
12 paragraph 94 are mischaracterized and taken out of context, and that the Official
13 Statements are written documents, which, as a whole, speak for themselves. Preston
14 denies the remaining allegations contained in paragraph 94.

15 95. Preston states that the Official Statements referred to and excerpted in
16 paragraph 95 are mischaracterized and taken out of context, and that the Official
17 Statements are written documents, which, as a whole, speak for themselves. Preston
18 denies the remaining allegations contained in paragraph 95.

19 96. Preston states that the Official Statements referred to and excerpted in
20 paragraph 96 are mischaracterized and taken out of context, and that the Official
21 Statements are written documents, which, as a whole, speak for themselves. Preston
22 denies the remaining allegations contained in paragraph 96.

23 97. Preston objects to the words “aided,” “actively approved,” and
24 “supported” as vague and objects to words “actions taken by the Spokane Mayor and
25 City Council between 1995 and 1997” as vague, overly broad and failing to adequately

1 identify any specific actions and states that to the extent such alleged actions are
2 embodied in written documents, such documents, as a whole, speak for themselves.
3 Subject to these objections, Preston states that the City, by and through its
4 representatives and through enactment of City Ordinances and Resolutions has
5 approved the proposal of the Foundation to acquire the Garage and finance the
6 acquisition through the issuance of the Bonds and, based on the foregoing objections,
7 denies each and every other or different allegation contained in paragraph 97 for lack of
8 knowledge or information sufficient to form a belief as to truth or falsity.

9 98. Preston admits that the City adopted Resolution No. 96-144, states that the
10 Resolution is a written document, which, as a whole, speaks for itself, and lacks
11 knowledge or information sufficient to form a belief as to the truth or falsity of the
12 remaining allegations contained in paragraph 98 and, on that basis, denies those
13 allegations.

14 99. Preston admits that on or around January 13, 1997, the City adopted
15 Resolution No. 97-2, states that the Resolution is a written document, which, as a
16 whole, speaks for itself, and lacks knowledge or information sufficient to form a belief
17 as to the truth or falsity of the remaining allegations contained in paragraph 99 and, on
18 that basis, denies those allegations.

19 100. Preston admits that the City adopted the Ordinance on or around January
20 27, 1997, and states that the Ordinance, which is excerpted and taken out of context in
21 paragraph 100, is a written document, which, as a whole, speaks for itself. Preston
22 admits that the investment grade rating given to the Bonds was related to the
23 Ordinance. Preston denies that the Ordinance was falsely and misleadingly described
24 in the Official Statements and denies each and every other or different remaining
25

1 allegation contained in paragraph 100 on the basis that it lacks knowledge or
2 information sufficient to form a belief as to the truth or falsity of those allegations.

3 101. Preston states that the Ordinance referred to and excerpted in paragraph
4 101 is taken out of context and that the Ordinance, as a whole, speaks for itself.

5 102. Preston states that the Ordinance and Resolution referred to in paragraph
6 102 are written documents, which, as a whole, speak for themselves and denies each
7 and every other or different allegation contained in paragraph 102.

8 103. Preston admits the allegations contained in paragraph 103 and states that
9 the Garage lease and the Ground lease referred to therein are written documents, which,
10 as a whole, speak for themselves.

11 104. Preston states that the Ground Lease referred to in paragraph 104 is a
12 written document, which, as a whole, speaks for itself, and denies each and every other
13 or different allegation contained in paragraph 104.

14 105. Preston states that the Garage Lease referred to in paragraph 105 is a
15 written document, which, as a whole, speaks for itself, and denies each and every other
16 or different allegation contained in paragraph 105.

17 106. Preston states that the Garage Lease and the Ground Lease referred to in
18 paragraph 106 are written documents, which, as a whole, speak for themselves, and
19 denies each and every other or different allegation contained in paragraph 106.

20 107. Preston admits that by the Indenture of Trust, the Foundation assigned to
21 the Trustee certain rights under the Lease and states that the assignment is contained in
22 written documents, which, as a whole, speak for themselves. Preston denies each and
23 every other or different remaining allegation contained in paragraph 107.
24
25

1 108. Preston states that the Garage Lease and the Ground Lease referred to in
2 paragraph 108 are written documents, which, as a whole, speak for themselves, and
3 denies each and every other or different allegation contained in paragraph 108.

4 109. Preston lacks knowledge or information sufficient to form a belief as to the
5 truth or falsity of the allegations contained in paragraph 109 and, on that basis, denies
6 those allegations.

7 110. Preston denies the allegations contained in paragraph 110 to the extent
8 they purport to pertain to Preston. Preston lacks knowledge or information sufficient to
9 form a belief as to the truth or falsity of the remaining allegations contained in
10 paragraph 110 and, on that basis, denies those allegations.

11 111. Preston lacks knowledge or information sufficient to form a belief as to the
12 truth or falsity of the allegations contained in paragraph 111 and, on that basis, denies
13 those allegations.

14 112. Preston lacks knowledge or information sufficient to form a belief as to the
15 truth or falsity of the allegations contained in paragraph 112 and, on that basis, denies
16 those allegations.

17 113. Preston states that the Opinion Letters referred to and excerpted in
18 paragraph 113 are written documents, which as a whole, speak for themselves.

19 114. Preston states that the Opinion Letters referred to and excerpted in
20 paragraph 114 are written documents, which as a whole, speak for themselves.

21 115. Preston admits the allegations contained in the first sentence of paragraph
22 115. Answering the second sentence of paragraph 115, Preston denies Plaintiff's
23 selective characterization of what is or is not relevant and states that the Opinion
24 Letters and Official Statement referred to and excerpted in paragraph 115 are written
25 documents, which, as a whole, speak for themselves.

1 116. Preston objects to the words “reviewed and accepted” as vague and,
2 subject to that objection, admits the allegations contained in the first sentence of
3 paragraph 116, except states that any acceptance or approval by the Foundation was
4 based in part on the representations of other participants in their certificates and subject
5 to the limitations provided in written documents, including the Official Statement,
6 certificates of others, and the General Certificate of the Foundation, which, as a whole,
7 speak for themselves. Preston states that the alleged City certification referred to in the
8 second sentence of paragraph 116 is a written document, which, as a whole, speaks for
9 itself. Preston states that the allegations contained in the third sentence of paragraph 3
10 are legal conclusions for which no response is required, and that the allegations
11 contained in the fourth sentence are incomplete and incoherent and require no response.
12 Except as expressly admitted, Preston denies each and every other or different
13 allegation contained in paragraph 116.

14 117. Preston states that the alleged writings by the City Manager and Authority
15 referred to and excerpted in paragraph 117 are written documents, which, as a whole,
16 speaks for themselves.

17 118. Preston lacks knowledge or information sufficient to form a belief as to the
18 truth or falsity of the allegations contained in the first and second sentences of
19 paragraphs 118 and, on that basis, denies those allegations. Answering the third
20 sentence, Preston states that the Ordinance and other documents referred to in
21 paragraph 118 are written documents, which, as a whole, speak for themselves and
22 denies each and every other or different allegation contained in paragraph 118.

23 119. Preston denies the allegations contained in paragraph 119.

24 120. Preston states that the Ordinance, Official Statement and Opinion Letters
25 referred to in paragraph 120 are written documents, which, as a whole, speak for

1 themselves and denies each and every other or different allegation for lack of
2 knowledge or information sufficient to form a belief as to truth or falsity.

3 121. Preston lacks knowledge or information sufficient to form a belief as to the
4 truth or falsity of the allegations contained in the first and second sentences of
5 paragraph 121 and, on that basis, denies those allegations. Preston states that the City's
6 representations referred to in the third and fourth sentences of paragraph 121 are
7 written documents, which, as a whole, speak for themselves.

8 122. Preston states that the statements allegedly made by the City referred to in
9 paragraph 122 are contained in written documents, which, as a whole, speak for
10 themselves, and denies Plaintiff's selective characterization of those statements for lack
11 of knowledge or information sufficient to form a belief as to truth or falsity.

12 123. Preston states that the statements allegedly made by the City referred to in
13 paragraph 123 are contained in written documents, which as a whole, speak for
14 themselves, and denies Plaintiff's selective characterization of those statements for lack
15 of knowledge or information sufficient to form a belief as to truth or falsity.

16 124. Preston states that the Opinion Letters and Official Statement referred to in
17 the first and second sentences of paragraph 124 are written documents, which, as a
18 whole, speak for themselves. Preston lacks knowledge or information sufficient to
19 form a belief as to the truth or falsity of the allegations contained in the third and fourth
20 sentences of paragraph 124 and, on that basis, denies those allegations.

21 125. Preston denies the allegations contained in paragraph 125 to the extent
22 they purport to apply to Preston, admits that the investment rating on the Bonds has
23 been downgraded twice and denies the remaining allegations contained in paragraph
24 125 for lack of knowledge or information sufficient to form a belief as to their truth or
25 falsity.

1 126. Preston states that the Official Statements referred to and excerpted in
2 paragraph 126 are mischaracterized and taken out of context and that the Official
3 Statements are written documents, which, as a whole, speak for themselves. Preston
4 denies the remaining allegations contained in paragraph 126.

5 127. Preston states that the Official Statements and Reports referred to and
6 excerpted in paragraph 126 are mischaracterized and taken out of context, and that the
7 Official Statements and Reports are written documents, which, as a whole, speak for
8 themselves. Preston denies the remaining allegations contained in paragraph 127.

9 128. Preston states that the Official Statements and Walker Report referred to
10 and excerpted in paragraph 126 are mischaracterized and taken out of context, and that
11 the Official Statements and Walker Report are written documents, which, as a whole,
12 speak for themselves. Preston denies the remaining allegations contained in paragraph
13 128.

14 129. Preston states that the Walker Reports referred to and excerpted in
15 paragraph 126 are mischaracterized and taken out of context, and that the Reports are
16 written documents, which, as a whole, speak for themselves. Preston denies that it was
17 aware of the alleged 1995 Walker Report at the time that the Official Statements were
18 issued and denies each and every other or different allegation contained in paragraph
19 129.

20 130. Paragraph 130 contains legal conclusions for which no response is
21 required. To the extent any answer is required, Preston states that the words
22 “substantially participated in making factual representations” is vague and states that it
23 delivered written opinions in connection with the issuance of the bonds and that the
24 opinions are contained in written documents that, as a whole, speak for themselves.
25 Except as otherwise expressly admitted herein, Preston denies the remaining allegations

1 contained in paragraph 130 to the extent they purport to apply to Preston. Preston lacks
2 knowledge or information sufficient to form a belief as to the truth or falsity of the
3 remaining allegations contained in paragraph 130 as they may purport to apply to other
4 defendants and, on that basis, denies those allegations.

5 131. Preston lacks knowledge or information sufficient to form a belief as to the
6 truth or falsity of the allegations contained in paragraph 131 and, on that basis, denies
7 those allegations.

8 132. Preston lacks knowledge or information sufficient to form a belief as to the
9 truth or falsity of the allegations contained in paragraph 132 and, on that basis, denies
10 those allegations.

11 133. Preston admits that the rating agency Standard & Poors stated it would
12 give the Bonds a BBB- investment grade rating and that the rating was related, in part,
13 to the Ordinance. Preston lacks knowledge or information sufficient to form a belief as
14 to the truth or falsity of the remaining allegations contained in paragraph 133 and, on
15 that basis, denies those allegations.

16 134. Preston admits that the mall renovation was to be conducted in two phases,
17 that the Garage renovation and expansion was to occur in the first phase, and that
18 parking revenues were expected to increase as construction was completed and tenants
19 increased. Preston states that the Walker Report referred to in paragraph 134 is a
20 written document, which, as a whole, speaks for itself and denies the remaining
21 allegations for lack of knowledge or information sufficient to form a belief as to truth
22 or falsity.

23 135. Preston lacks knowledge or information sufficient to form a belief as to the
24 truth or falsity of the allegations contained in paragraph 135 and, on that basis, denies
25 those allegations.

1 136. Preston admits that the Bond proceeds were placed in escrow and subject
2 to mandatory redemption if ownership of the Garage was not transferred to the
3 Foundation and that the transfer was subject to conditions and states that such
4 provisions are set forth in written documents, which, as a whole, speak for themselves,
5 and denies each and every other or different allegation contained in the first sentence of
6 paragraph 136. Preston admits that ownership of the Garage was transferred to the
7 Foundation and leased to the Authority in about September 1999 and that prior to such
8 transfer, AMC made objections in writing, which were provided at least in part to
9 Preston and certain other defendants and states that such objections speak for
10 themselves. Preston states that an agreement was reached regarding parking rates for
11 the Garage and states that the agreement, which is taken out of context in paragraph
12 136, is a written document, which, as a whole, speaks for itself. Preston denies the
13 remaining allegations contained in paragraph 136 to the extent they purport to apply to
14 Preston. Preston lacks knowledge or information sufficient to form a belief as to the
15 truth or falsity of the remaining allegations contained in paragraph 136 and, on that
16 basis, denies those allegations.

17 137. Paragraph 137 contains legal conclusions for which no response is
18 required. To the extent any answer is required, Preston admits that if the sale of the
19 Garage had not been completed by a prescribed date, the Bonds would be subject to
20 mandatory redemption and that provisions therefore are contained in written
21 documents, which, as a whole, speak for themselves. Preston lacks knowledge or
22 information sufficient to form a belief as to the truth or falsity of each and every other
23 or different allegation contained in paragraph 137 and, on that basis, denies those
24 allegations.
25

1 138. Preston states that the newspaper article and Standard & Poors report
2 referred to and selectively quoted in paragraph 138 are written documents, which, as a
3 whole, speak for themselves and denies the remaining allegations for lack of
4 knowledge or information sufficient to form a belief as to truth or falsity.

5 139. Preston lacks knowledge or information sufficient to form a belief as to the
6 truth or falsity of the allegations contained in paragraph 139 and, on that basis, denies
7 those allegations.

8 140. Preston lacks knowledge or information sufficient to form a belief as to the
9 truth or falsity of the allegations contained in paragraph 140 and, on that basis, denies
10 those allegations.

11 141. Preston admits the Bonds were downgraded a second time and states that
12 to the extent such alleged downgrade or announcement thereof are contained in written
13 documents, such documents, as a whole, speak for themselves. Preston lacks
14 knowledge of information sufficient to form a belief of the truth or falsity of the
15 remaining allegations and, on that basis, denies the remaining allegations contained in
16 paragraph 141.

17 142. Preston admits that a Resolution was passed on or around April 26, 2000,
18 and states that the Resolution is a written document, which, as a whole, speaks for
19 itself. Preston denies the allegations contained in the third sentence of paragraph 142 to
20 the extent they purport to relate to Preston. Preston lacks knowledge or information
21 sufficient to form a belief as to the truth or falsity of the remaining allegations
22 contained in paragraph 142 and, on that basis, denies those allegations.

23 143. Preston lacks knowledge or information sufficient to form a belief as to the
24 truth or falsity of the allegations contained in paragraph 143 and, on that basis, denies
25 those allegations.

1 144. Preston lacks knowledge or information sufficient to form a belief as to the
2 truth or falsity of the allegations contained in paragraph 144 and, on that basis, denies
3 those allegations.

4 145. Preston admits that *Camas* magazine and local KXLY TV station printed
5 and aired news reports, and that related web sites were established, and states that such
6 reports and web sites, which are mischaracterized and taken out of context in paragraph
7 145, speak for themselves and denies each and every other or different allegation
8 contained in paragraph 145.

9 146. Preston lacks knowledge or information sufficient to form a belief as to the
10 truth or falsity of the allegations contained in paragraph 146 and, on that basis, denies
11 those allegations.

12 147. Preston denies the allegations contained in paragraph 147 to the extent
13 they purport to relate to Preston and lacks knowledge or information sufficient to form
14 a belief as to the truth or falsity of the remaining allegations contained in paragraph
15 147, including as they purport to apply to the other defendants and to plaintiffs and, on
16 that basis, denies those allegations.

17 148. Preston lacks knowledge or information sufficient to form a belief as to the
18 truth or falsity of the allegations contained in paragraph 148 and, on that basis, denies
19 those allegations.

20 149. Preston objects to the words “far short,” “grossly inflated,” and
21 “significant” as argumentative and vague. Subject to those objections, Preston admits
22 that the revenues generated by the Garage have fallen short of projections, states that
23 the Foundation has made debt service on the Bonds and the amount of debt service paid
24 is contained in written documents, which, as a whole, speak for themselves, lacks
25 knowledge or information sufficient to form a belief as to what amount of debt service

1 will be paid in the future, and denies each and every other or different remaining
2 allegation contained in paragraph 149.

3 150. Preston states that the complaint referred to in paragraph 150 is a written
4 document, which, as a whole, speaks for itself, and denies each and every other or
5 different allegation contained in paragraph 150 for lack of knowledge or information
6 sufficient to form a belief as to truth or falsity.

7 151. Paragraph 151 contains legal conclusions for which no response is
8 required. To the extent any answer is required, Preston denies the allegations contained
9 in paragraph 151.

10 152. Paragraph 152 contains legal conclusions for which no response is
11 required. To the extent any answer is required, Preston denies the allegations contained
12 in paragraph 152 to the extent they purport to apply to Preston and lacks knowledge or
13 information sufficient to form a belief as to the truth or falsity of the allegations
14 contained in paragraph 152 as they purport to apply to other defendants or plaintiffs
15 and, on that basis, denies those allegations.

16 **FIRST CLAIM FOR RELIEF**

17 153. Although paragraph 153 does not require an answer, Preston incorporates
18 by this reference each of its answers set forth above.

19 154. Preston states that paragraph 154 contains legal conclusions for which no
20 answer is required. To the extent any answer is required, Preston denies the allegations
21 contained in paragraph 154 to the extent they purport to apply to Preston. Preston lacks
22 knowledge or information sufficient to form a belief as to the truth or falsity of the
23 remaining allegations contained in paragraph 154 as they purport to pertain to other
24 defendants and, on that basis, denies those allegations.
25

1 155. Preston states that paragraph 155 contains legal conclusions for which no
2 answer is required. To the extent any answer is required, Preston states that the
3 referenced statutory provisions speak for themselves, and Preston lacks knowledge or
4 information sufficient to form a belief as to the truth or falsity of the allegations
5 contained in paragraph 155 and, on that basis, denies those allegations.

6 156. Preston states that paragraph 156 contains legal conclusions for which no
7 answer is required. To the extent any answer is required, Preston states that the
8 referenced statutory provisions speak for themselves and that Preston lacks knowledge
9 or information sufficient to form a belief as to the truth or falsity of the allegations
10 contained in paragraph 156 and, on that basis, denies those allegations.

11 157. Preston states that paragraph 157 contains legal conclusions for which no
12 answer is required. To the extent any answer is required, Preston denies the allegations
13 contained in paragraph 157 to the extent they purport to pertain to Preston. Preston
14 lacks knowledge or information sufficient to form a belief as to the truth or falsity of
15 the remaining allegations contained in paragraph 157 to the extent they purport to apply
16 to other defendants and, on that basis, denies those allegations.

17 158. Preston states that paragraph 158 contains legal conclusions for which no
18 answer is required. To the extent any answer is required, Preston denies the allegations
19 contained in paragraph 158 to the extent they purport to pertain to Preston. Preston
20 lacks knowledge or information sufficient to form a belief as to the truth or falsity of
21 the remaining allegations contained in paragraph 158 as they purport to apply to other
22 defendants or plaintiffs and, on that basis, denies those allegations.

23 159. Preston lacks knowledge or information sufficient to form a belief as to the
24 truth or falsity of the allegations contained in paragraph 159 and, on that basis, denies
25 those allegations.

1 160. Preston states that paragraph 160 contains legal conclusions for which no
2 answer is required. To the extent any answer is required, Preston denies the allegations
3 contained in paragraph 160 to the extent they purport to apply to Preston. Preston lacks
4 knowledge or information sufficient to form a belief as to the truth or falsity of the
5 remaining allegations contained in paragraph 160 as they purport to apply to other
6 defendants or plaintiffs and, on that basis, denies those allegations.

7 161. Preston states that paragraph 161 contains legal conclusions for which no
8 answer is required. To the extent any answer is required, Preston denies the allegations
9 contained in paragraph 161 to the extent they purport to apply to Preston. Preston lacks
10 knowledge or information sufficient to form a belief as to truth or falsity of the
11 remaining allegations as they purport to apply to other defendants or plaintiffs and, on
12 that basis, denies those allegations.

13 162. Preston states that paragraph 162 contains legal conclusions for which no
14 answer is required. To the extent any answer is required, Preston denies the allegations
15 contained in paragraph 162 to the extent they purport to apply to Preston. Preston lacks
16 knowledge or information sufficient to form a belief as to the truth or falsity of the
17 remaining allegations contained in paragraph 162 as they purport to apply to other
18 defendants or plaintiffs and, on that basis, denies those allegations.

19 **SECOND CLAIM FOR RELIEF**

20 163. Although paragraph 163 does not require an answer, Preston incorporates
21 by this reference each of its answers set forth above.

22 164. Preston states that paragraph 164 does not require an answer. To the
23 extent any answer is required, Preston lacks knowledge or information sufficient to
24 form a belief as to the truth or falsity of the allegations contained in paragraph 164 and,
25 on that basis, denies those allegations.

1 165. Preston states that paragraph 165 contains legal conclusions for which no
2 answer is required. To the extent any answer is required, Preston states that the
3 referenced statutory provisions speak for themselves and denies the allegations
4 contained in paragraph 165.

5 166. Preston states that paragraph 166 contains legal conclusions for which no
6 answer is required. To the extent any answer is required, Preston states that the
7 referenced statutory provisions speak for themselves and denies the allegations
8 contained in paragraph 166.

9 167. Preston states that paragraph 167 contains legal conclusions for which no
10 answer is required. To the extent any answer is required, Preston states that the
11 referenced statutory provisions speak for themselves and denies the allegations
12 contained in paragraph 167.

13 168. Preston states that paragraph 168 contains legal conclusions for which no
14 answer is required. To the extent any answer is required, Preston states that the
15 referenced statutory provisions speak for themselves and denies the allegations
16 contained in paragraph 168.

17 169. Preston states that paragraph 169 contains legal conclusions for which no
18 answer is required. To the extent any answer is required, Preston admits that it acted as
19 bond counsel and that Prudential acted as an underwriter and states that the referenced
20 statutory provisions speak for themselves. Except as otherwise admitted, Preston
21 denies the remaining allegations contained in paragraph 169.

22 170. Preston denies the allegations contained in paragraph 170.

23 171. Preston denies the allegations contained in paragraph 171 to the extent
24 they purport to apply to Preston. Preston lacks knowledge or information sufficient to
25

1 form a belief as to the truth or falsity of the allegations contained in paragraph 171 as
2 they purport to apply to other defendants and, on that basis, denies those allegations.

3 **THIRD CLAIM FOR RELIEF**

4 172. Although no answer is required, Preston incorporates by this reference
5 each of its answers set forth above.

6 173. Preston states that paragraph 173 does not require an answer. To the
7 extent any answer is required, Preston lacks knowledge or information sufficient to
8 form a belief as to the truth or falsity of the allegations contained in paragraph 173 and,
9 on that basis, denies those allegations.

10 174. Preston denies the allegations contained in paragraph 174 to the extent
11 they purport to apply to Preston. Preston lacks knowledge or information sufficient to
12 form a belief as to the truth or falsity of the remaining allegations contained in
13 paragraph 174 as they purport to apply to other defendants and, on that basis, denies
14 those allegations.

15 175. Preston states that paragraph 175 contains legal conclusions for which no
16 answer is required. To the extent any answer is required, Preston denies the allegations
17 contained in paragraph 175 to the extent they purport to apply to Preston and lacks
18 knowledge or information sufficient to form a belief as to the truth or falsity of the
19 remaining allegations contained in paragraph 175 as they purport to pertain to other
20 defendants and, on that basis, denies those allegations.

21 176. Preston states that paragraph 176 contains legal conclusions for which no
22 answer is required. To the extent any answer is required, Preston denies the allegations
23 contained in paragraph 176 to the extent they purport to apply to Preston and lacks
24 knowledge or information sufficient to form a belief as to the truth or falsity of the
25

1 remaining allegations contained in paragraph 176 as they purport to pertain to other
2 defendants and, on that basis, denies those allegations.

3 177. Preston states that paragraph 177 contains legal conclusions for which no
4 answer is required. To the extent any answer is required, Preston lacks knowledge or
5 information sufficient to form a belief as to the truth or falsity of the allegations
6 contained in paragraph 177 and, on that basis, denies those allegations.

7 178. Preston denies the allegations contained in paragraph 178 to the extent
8 they may purport to apply to Preston. Preston lacks knowledge or information
9 sufficient to form a belief as to the truth or falsity of the remaining allegations
10 contained in paragraph 178 as they purport to apply to other defendants and, on that
11 basis, denies those allegations.

12 **FOURTH CLAIM FOR RELIEF**

13 179. Although no answer is required, Preston incorporates by this reference
14 each of its answers set forth above.

15 180. Preston states that paragraph 180 does not require an answer. To the
16 extent any answer is required, Preston lacks knowledge or information sufficient to
17 form a belief as to the truth or falsity of the allegations contained in paragraph 180 and,
18 on that basis, denies those allegations.

19 181. Preston states that paragraph 181 contains legal conclusions for which no
20 answer is required. To the extent any answer is required, Preston denies the allegations
21 contained in paragraph 181 to the extent they purport to apply to Preston and lacks
22 knowledge or information sufficient to form a belief as to the truth or falsity of the
23 remaining allegations contained in paragraph 181 as they purport to pertain to other
24 defendants and, on that basis, denies those allegations.
25

1 182. Preston states that paragraph 182 contains legal conclusions for which no
2 answer is required. To the extent any answer is required, Preston denies the allegations
3 contained in paragraph 182 to the extent they purport to apply to Preston and lacks
4 knowledge or information sufficient to form a belief as to the truth or falsity of the
5 remaining allegations contained in paragraph 182 as they purport to pertain to other
6 defendants and, on that basis, denies those allegations.

7 183. Preston states that paragraph 183 contains legal conclusions for which no
8 answer is required. To the extent any answer is required, Preston denies the allegations
9 contained in paragraph 183 to the extent they purport to apply to Preston and lacks
10 knowledge or information sufficient to form a belief as to the truth or falsity of the
11 remaining allegations contained in paragraph 183 as they purport to pertain to other
12 defendants and, on that basis, denies those allegations.

13 **FIFTH CLAIM FOR RELIEF**

14 184. Although no answer is required, Preston incorporates by this reference
15 each of its answers set forth above.

16 185. Preston states that paragraph 185 does not require an answer. To the
17 extent any answer is required, Preston lacks knowledge or information sufficient to
18 form a belief as to the truth or falsity of the allegations contained in paragraph 185 and,
19 on that basis, denies those allegations.

20 186. Preston states that paragraph 186 appears to be directed at the City of
21 Spokane and the Authority, not Preston, and, on that basis, no response is required. To
22 the extent any answer is required, Preston states that paragraph 186 contains legal
23 conclusions for which no response is required and lacks knowledge or information
24 sufficient to form a belief as to the truth or falsity of the allegations contained in
25 paragraph 186 and, on that basis, denies those allegations.

1 187. Preston states that paragraph 187 appears to be directed at the City of
2 Spokane and the Authority, not Preston, and, on that basis, no response is required. To
3 the extent any answer is required, Preston states that paragraph 187 contains legal
4 conclusions for which no response is required and lacks knowledge or information
5 sufficient to form a belief as to the truth or falsity of the allegations contained in
6 paragraph 187 and, on that basis, denies those allegations.

7 188. Preston states that paragraph 188 appears to be directed at the City of
8 Spokane and the Authority, not Preston, and, on that basis, no response is required. To
9 the extent any answer is required, Preston states that paragraph 188 contains legal
10 conclusions for which no response is required and lacks knowledge or information
11 sufficient to form a belief as to the truth or falsity of the allegations contained in
12 paragraph 188 and, on that basis, denies those allegations.

13 **AFFIRMATIVE DEFENSES**

14 AND, NOW, by way of further answering the allegations in the complaint,
15 Preston sets forth its additional defenses as follows:

16 (1) Plaintiff's complaint fails to state, in whole or in part, a claim upon which
17 relief can be granted;

18 (2) Plaintiff's claims are barred, in whole or in part, by the statutes of
19 limitations;

20 (3) Plaintiff's claims are barred, in whole or in part, by the doctrines of laches
21 waiver and/or estoppel;

22 (4) Plaintiff's claimed injuries and damages were caused, in whole or in part,
23 by the acts or omissions of others, whether individual, corporate or otherwise, whether
24 named or unnamed, for whose conduct Preston is not responsible;
25

1 (5) Plaintiff's claims are barred, in whole or in part, by Plaintiff's own
2 conduct and comparative fault;

3 (6) Plaintiff's complaint fails to plead fraud with the particularity required by
4 the PSLRA and Federal Rule 9(b);

5 (7) Plaintiff's claims are barred, in whole or in part, because Preston could not
6 with the exercise of reasonable care have discovered the alleged fraud;

7 (8) Plaintiff's claims fail, in whole or in part, under the doctrine of unclean
8 hands;

9 (9) Plaintiff has failed to mitigate its alleged damages;

10 (10) Plaintiff's claims fail, in whole or in part, to the extent that they are not
11 ripe for adjudication;

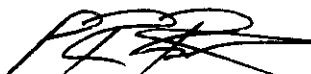
12 (11) Plaintiff's claims fail, in whole or in part, for lack of jurisdiction.

13 WHEREFORE, having fully answered Plaintiff's Complaint, defendant Preston
14 Gates & Ellis LLP prays for relief as follows:

- 15 1. Dismissal of all Plaintiffs' and AGIC's claims with prejudice;
16 2. An award of costs and attorneys' fees; and
17 3. Such other relief as the Court deems just and equitable.

18 DATED this 12th day of December, 2001.

19 CORR CRONIN LLP

20
21 
22 William F. Cronin, WSBA No. 08667
23 Paul R. Raskin, WSBA No. 24990
24 Attorneys for Defendant
25 Preston Gates & Ellis LLP

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THERESA LAPKE, being duly sworn, states:

2. On December 12, 2001, I caused a true and correct copy of Defendant Preston Gates & Ellis LLP's Answer and Affirmative Defenses to Plaintiff's First Amended Complaint to be served on the following counsel of record as follows:

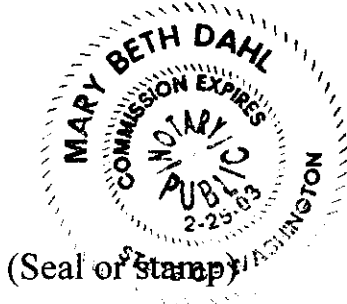
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James L. Robart Rudy A. Englund Lane Powell Spears Lubersky LLP 1420 Fifth Avenue, Suite 4100 Seattle, WA 98101-2338 Attorneys for Prudential Securities Inc. VIA EMAIL AND U.S. MAIL	Patrick M. Risken Evans, Craven & Lackie, P.S. 818 West Riverside, Suite 250 Spokane, WA 99201-0910 Attorneys for Walker Parking Consultants/Engineers, Inc. VIA EMAIL AND U.S. MAIL
William F. Etter Etter McMahon Lamberson & Clary PS 421 West Riverside Avenue, Suite 1600 Spokane, WA 99201-0518 Attorneys for Spokane Downtown Foundation VIA EMAIL AND U.S. MAIL	Leslie Richard Weatherhead Witherspoon Kelley Davenport & Toole West 422 Riverside Avenue Suite 1100 Spokane, WA 99201-0390 Attorneys for RPS II LLC VIA EMAIL AND U.S. MAIL
Ladd B. Leavens Davis Wright Tremaine LLP 1501 Fourth Avenue, Suite 2600 Seattle, WA 98101-1688 Attorneys for Citizens Realty Co. & Lincoln Investment Co. of Spokane VIA EMAIL AND U.S. MAIL	James Bernard King Keefe King & Bowman West 601 Main Avenue, Suite 1102 Spokane, WA 99201 Attorneys for Spokane Public Parking Development Authority d/b/a River Park Square Authority VIA EMAIL AND U.S. MAIL
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Theresa Lapke
THERESA LAPKE

SIGNED AND SWORN to before me on December 12, 2001.



Mary Beth Dahl
(Signature)

MARY BETH DAHL
(Name legibly printed or stamped)
Notary Public in and for the State of Washington,
residing at Federal Way

2-25-03
My appointment expires